

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

PENTHOUSE OWNERS ASSOCIATION, INC.

PLAINTIFF

V.

CIVIL ACTION NO.1:07CV568 LTS-RHW

CERTAIN UNDERWRITERS AT LLOYD'S, LONDON

DEFENDANT

MEMORANDUM OPINION

The Court has before it the motions [152] [154] [155] of Plaintiff Penthouse Owners Association, Inc. (Penthouse), to exclude any mention, reference, or evidence related to the following individuals:

Richard Scruggs;
Zachery Scruggs;
Sid Backstrom;
Timothy Balducci;
Steve Patterson;
Cory Rigsby;
Kerry Rigsby.

Plaintiffs also seek to exclude any mention, reference, or evidence related to the following entities:

The Scruggs Law Firm (SLF);
The Scruggs Katrina Group (SKG).

Plaintiffs also seek to exclude any mention, reference, or evidence related to the following matters:

1. The fee dispute and lawsuit between the Jones Law Firm and Plaintiffs current and former counsel (the fee dispute);
2. Any indictments or other criminal proceedings against the individuals identified above or their pleas in connection with these criminal proceedings (criminal proceedings);
3. The disqualification of the Katrina Litigation Group from certain cases in The United States District Court for the Southern District of Mississippi (the disqualification);

4. The criminal contempt proceeding against Richard Scruggs in the United States District Court for the Northern District of Alabama (contempt proceedings);
5. Events related to Cory and Kerry Rigsby (the Rigsby Sisters).

Finally, Penthouse seeks to exclude any mention, reference, or evidence related to the ethics of the conduct of its current and former counsel. These motions ask the Court to exclude any reference to these matters from all aspects of the trial including *voir dire* and opening statements.

As grounds for these motions Penthouse asserts that if the Court allows any discussion of or reference to these individuals, this firm, this joint venture, and the other matters identified above, the adverse and unsavory publicity surrounding them would deprive it of a fair trial of the merits of its claims. Penthouse asserts that no information concerning any of these individuals, this firm, this joint venture, or the other matters is relevant to any issue in dispute, and references to them will unfairly prejudice Penthouse's efforts to prove its case on the merits. I agree.

I find that under Rule 403 of the Federal Rules of Evidence references to these individuals, this firm, this joint venture, and the other matters listed above would only be relevant to the issues framed by the pleading in this case in a very remote and tenuous way, if at all, and I find that any such minimal relevance these matters might theoretically have is substantially outweighed by the danger of unfair prejudice, confusion on the issues, or misleading of the jury.

Penthouse has had nothing to do with the fee dispute, the criminal proceedings, the disqualification, the contempt proceedings, or the Rigsby Sisters. Nor has Penthouse any involvement in the ethics of its current and former counsels' conduct in other actions. Steve Patterson and Timothy Balducci are strangers to Penthouse and have no connection at all to this case. Richard Scruggs, Zachery Scruggs, and the SKG have never appeared on behalf of Penthouse. Sid Backstrom and the SLF were granted leave to withdraw from representing Penthouse on December 6, 2007.

The merits of this case have to do with the coverage, if any, available under the Lloyd's policy to compensate Penthouse for the property damage sustained during Hurricane Katrina, and the extent of the plaintiff's covered losses. Injecting any of these extraneous issues into the trial of this case will serve no legitimate purpose and would be likely to prolong the trial unnecessarily. Accordingly, I will grant these Penthouse motions in limine.

DECIDED this 10th day of July, 2008.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE